

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No. 7:97-CR-00098-F-1

UNITED STATES OF AMERICA

v.

EMMETT MADISON GRAHAM

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**ORDER**

This matter is before the court on the Government's Motion for Reconsideration Based on New Evidence [DE-319]. The Motion is ALLOWED insofar as it requests clarification of the court's previous order.

Defendant Emmett Madison Graham faces revocation after allegedly testing positive for cocaine use multiple times while on supervised release. Mr. Graham's revocation hearing was initially scheduled on July 15, 2015. At that time, Mr. Graham indicated that he believed his prescription medications were causing false positive results on drug tests administered by the United States Probation Office. Tr. Revocation Hr'g July 15, 2015 [DE-312] at 19. Mr. Graham reported learning about the possibility of a false positive drug test from his doctor. *Id.* The court continued the hearing to its September 28, 2015 term of court so that Mr. Graham could produce evidence in the matter. *Id.* at 31. On October 1, 2015, Mr. Graham's nurse practitioner, Mr. Beaver, testified about anecdotal evidence he had read indicating that nitroglycerin and lidocaine might produce a false positive. Tr. Revocation Hr'g Oct. 1, 2015 [DE-318] at 14-15. He did not recall where he had read the information, but said that he would be able to locate it. *Id.* at 15. The court directed him to do so and to report his findings. *Id.* Meanwhile, the court continued the revocation hearing to the

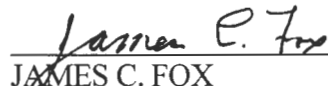
November 2, 2015 term of court, and directed the Government to be prepared to put on evidence related to its drug testing procedures. *Id.* at 24.

Following the hearing on October 1, 2015, Mr. Beaver responded to the court's directive. Beaver Email Oct. 1, 2015 [DE-319-1]. Mr. Beaver indicated that, based on what he had heard in court about the type of testing used by the Government, he believed Mr. Graham's positive drug tests were likely accurate. *Id.*

The Government now requests clarification of the court's directive at the October 1, 2015 hearing. After reviewing the entire record, including the transcripts of Mr. Graham's previous hearings, and the email from Mr. Beaver, the court no longer requires expert testimony with regard to the Government's drug testing procedures. Accordingly, to the extent the Government was directed to produce expert evidence regarding its drug testing procedures, that directive is stricken.

SO ORDERED.

This the 21 day of October, 2015.

  
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JAMES C. FOX  
Senior United States District Judge